
**Thomas P. DiNapoli
COMPTROLLER**



Audit Objectives 2

Audit Results - Summary..... 2

Background..... 4

**Audit Findings and
Recommendations**..... 6

Service Deliverables..... 6

Recommendations..... 9

Office Administration..... 9

Recommendations..... 10

Review of Non Personal Service

 Expenses 11

Recommendations..... 13

Department Oversight 14

Recommendations..... 15

Audit Scope and Methodology..... 15

Authority 16

Reporting Requirements..... 16

Contributors to the Report 16

Appendix A - Auditee Response.. 17

**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

**DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY**

**DEPARTMENT OF MOTOR
VEHICLES**

**ADMINISTRATION OF
CONTRACT #C000596**

**MOTORCYCLE
ASSOCIATION OF NEW
YORK STATE, INC.**

Report 2007-R-3

AUDIT OBJECTIVES

Our objectives were to determine whether the Motorcycle Association of New York State, Inc. (Association) provided the training and associated administrative services required by contract; and whether Association billings were supported and appropriate for the contracted program.

AUDIT RESULTS - SUMMARY

Our audit determined that the Association had established a number of affiliated training facilities to provide the training required by contract, and that those facilities were in fact providing the required training. However, the required number of facilities had yet to be achieved. We also determined that Association staff was not performing certain of their contracted administrative responsibilities and some Association billings were not supported and/or were inappropriate.

In 1997, the New York State Legislature established the Motorcycle Safety Fund to finance a statewide motorcycle operator and instructor training program (Program). In 1998, the Department of Motor Vehicles (Department) contracted with the Association to manage day to day Program activities. In addition to training and licensing prospective motorcycle operators and instructors, the Association was responsible for promoting and enhancing public awareness of the Program throughout the State and establishing a minimum of two new training sites per year. An Association official was to visit each site at least twice a year to ensure compliance with Program requirements.

The Department is responsible for monitoring the Association's compliance with contract requirements as well as its general operating practices. Since contract inception, the Department has assigned a Program Manager

for this purpose. In November 2001, we issued an audit report on the Department's original contract with the Association (Report #2000-R-3) which addressed a number of Program-related, administrative and fiscal deficiencies. Based on our current audit, we conclude that the deficiencies we identified in our initial audit continued to exist.

As of December 31, 2007, the Association had 22 active affiliated training sites instead of the 30 sites anticipated by that time. Further, the Association had established a position titled "Site Coordinator" to execute the site visits called for by contract. The Administrator informed us that he had been acting as the Site Coordinator since his appointment with the assistance of a part-time employee. However, except for seven visits made in 2007, he did not provide us with any notes or other documentation to evidence the required 88 visits (two per site per year) for 2006 and 2007. Nevertheless, based on our observations and the records maintained at the training facilities we visited, we conclude that the sites are providing the training curriculum required by contract.

During our audit, affiliated training sites hired a total of 82 instructors. To determine whether Program instructors met Association eligibility requirements, we selected a sample of 50 of the 82 instructors that were hired from February 2004 through April 2007. We found that 36 instructors did not meet one or more of the eligibility requirements based on available documentation.

The Association was also required to maintain a written inventory of its motorcycle fleet that included the vehicle identification number and the location of each motorcycle (e.g., training site, storage, etc.). We found that the Association's inventory record was not accurate and 37 Association motorcycles, valued at \$47,515, could not be accounted for.

Further, affiliated training sites are responsible for collecting and reporting student tuition. During calendar years 2006 and 2007, 75 persons registered for the instructor training course and paid tuition revenues totaling \$30,000, and 444 students enrolled in the beginning rider course and paid tuition revenues of \$122,100. Based on our audit testing, we conclude that Program revenues were properly recorded, reported and remitted to all appropriate parties.

The Association was responsible for operating in an effective and efficient manner to prevent the unnecessary expenditure of state monies, and to promote the highest standards of public service. As such, only qualified persons should have been hired to execute Association business. Further, proper controls over the time and attendance of Association employees was vital to ensure that employees were only paid for time actually worked or charged to accumulated leave accruals.

At the time of our audit, the Association employed four full-time and six part-time employees. The Association's payroll expenses for the audit period exceeded \$300,000 annually. We found that the Administrator did not maintain any records to support his time and attendance. We also observed a total of nine instances, equating to 39.5 hours, where other Association employees were not at work but their time records showed them to be in attendance.

During the period April 1, 2004 through May 31, 2007, the Association spent \$3.8 million dollars on non personal services including equipment purchases, travel and entertainment, credit card purchases and general operating expenses.

We identified \$316,975 of payments that were either unsupported, inappropriate or appeared excessive. For example, in September 2006

the Association purchased a \$46,000 Ford Lariat pick up truck for the Administrator for use during site visits as well as for towing motorcycles when necessary. The Lariat contains many upgrades such as chrome bumpers, a chrome grill, jewel effect headlamps, premium wheels and leather accoutrements, none of which can be justified for Association purposes. The Administrator did not maintain any support, such as a vehicle mileage log, to evidence the business usage of this vehicle.

We also found 149 travel and entertainment expense items, totaling \$55,717, had neither supporting receipts nor documentation of Program-justification.

In addition, we found that the Association has paid \$35,566 during the audit period for 5 cell phones assigned to the President, Administrator and three office-based employees. There was no written justification supporting the need for these phones.

We conclude that the Department's oversight of Association operations has not been sufficient to prevent and detect the deficiencies identified by our audit.

Our report contains 20 recommendations addressing the above noted issues. In general, Department officials agree with our report recommendations. They note, however, that they have been negotiating with a new contractor to operate the Program and will implement our recommendations as appropriate.

This report, dated March 12, 2009, is available on our website at:

<http://www.osc.state.ny.us>.

Add or update your mailing list address by contacting us at: (518) 474-3271 or
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

BACKGROUND

In 1997, the New York State Legislature established the Motorcycle Safety Fund to finance a statewide motorcycle operator and instructor training program (Program). In 1998, the Department, which is responsible for administering the Program, contracted with the Association (Contract C000498) to manage day to day Program activities. In February 2004, a new contract (Contract C000596) was awarded to the Association for an additional five years at a cost of \$6,482,000. The current contract expired on February 3, 2009.

In addition to training and licensing prospective motorcycle operators and instructors, the Association was responsible for promoting and enhancing public awareness of the Program throughout the State. To execute its responsibilities, as of December 31, 2007, the Association subcontracted with 22 independent training facilities and had been participating in periodic outreach events.

The Association is not the sole provider of motorcycle operator training in New York State. However, Association - affiliated training facilities are the only ones authorized to sponsor the NYS "Point and Insurance Reduction Program" (PIRP) and issue Department road test waivers. In fact, due to eligibility restrictions set forth in the preexisting legislation, such as a specific

experience requirement, the Association was the only vendor eligible to operate the Program - and therefore be awarded the contract. However proposed legislation submitted by Department officials on April 4, 2008 and subsequently approved by the Governor, State Senate and Assembly now enable the Department to solicit multiple potential vendors. (In response to our draft report, Department officials informed us that they have been negotiating with a new vendor, the Motorcycle Safety Foundation (MSF), which will be taking over Program administration.)

The Association is governed by a three-member unsalaried Board of Directors (Board) which includes a CEO/President (President) who chairs the Board. A "State Administrator" (Administrator) who reports to the President, is responsible for managing the Association's daily operations. The Administrator, who is not a state employee, was appointed in June 2006 when the Association's President "semi" retired to Arizona. At the time of our audit the Association employed four full-time office-based employees and six part-time (seasonal) employees.

As the awarding agency, the Department was responsible for monitoring the Association's compliance with contract requirements as well as its general operating practices. Since contract inception, the Department has assigned a Program Manager for this purpose.

In November 2001, we issued an audit report on the Department's original contract with the Association (Report #2000-R-3) that addressed a number of Program-related, administrative and fiscal deficiencies. Noted deficiencies included inadequate controls over employee time and attendance, unaccounted for motorcycle inventory, improper fee charges, and inefficient subcontracting for

motorcycle maintenance. We noted that the Department had not provided adequate oversight to promptly identify and address these deficiencies.

In May 2003, we performed a follow up review to determine the implementation status of the recommendations we made in our initial report. As a result of that review, we determined that the Association had begun to act upon our recommendations.

In 2006, the Comptroller's Office was copied on various communications between the Association and Department officials regarding the Association's need to implement an action plan to provide greater

oversight of, and to enhance Association relationships with, affiliated training sites; increase the number of training sites as called for by contract; fill vacant positions to allow the Association to provide the services it was established to provide; and improve motorcycle maintenance practices. The Administrator responded with his plans to do so.

We conclude that the deficiencies we identified in our initial audit continued to exist. In addition, we identified several other deficiencies in the Association's financial operations that did not ensure the efficient and effective use of all State monies devoted to this contract.

The following Table illustrates the Association's Financial Activities for the Fiscal Years Ended March 31, 2005, 2006 and 2007:

Fiscal Year	2005 (1)	2006 (1)	2007(2)	Total
Support and Revenues:				
Contract Funds and Student Fees	\$1,173,232	\$1,218,747	\$ 1,239,051	\$3,631,030
Other (3)	\$ 3,270	\$ 3,234	\$ 4,328	\$ 10,832
Total	\$1,176,502	\$1,221,981	\$ 1,243,379	\$3,641,862
Expenses				
Rider Education (4)	\$ 864,402	\$ 971,645	\$ 741,628	\$2,577,675
Office Administration (5)	\$ 374,289	\$ 319,713	\$ 564,657	\$1,258,659
Total	\$1,238,691	\$1,291,358	\$ 1,306,285	\$3,836,334
Deficit (6)	(\$ 62,189)	(\$ 69,377)	(\$ 62,906)	(\$194,472)

1. Per the Association's audited financial statements.
2. Per the Association's general ledger (2007 audited statements not available at time of audit).
3. Interest on Association accounts.
4. Program-related expenses.
5. Office-related expenses.
6. Illustrated Program deficits are due to outstanding voucher reimbursements.

AUDIT FINDINGS AND RECOMMENDATIONS

Service Deliverables

The audited contract, which began in 2004, called for continued expansion of the Program by establishing a minimum of two new training sites per year. As such, as of December 31, 2007 the Association should have established a minimum of 30 motorcycle training sites. The Association was required to ensure that these affiliated sites have adequate physical facilities, qualified training instructors, an adequate number of working motorcycles, and knowledgeable staff to collect and record revenues accurately. An Association official was to visit each facility at least twice a year to ensure that they comply with these requirements and to engage in open and meaningful communications with each site to ensure that Program policies are understood and complied with. Further, the Association was to promote the Program throughout the State to enhance Program interest and participation.

Training Facilities

As of December 31, 2007, the Association had 22 affiliated training sites - eight short of the stated goal. According to the Administrator (in response to an inquiry from the Department) some new sites had been established since 2004 while other sites have closed keeping the total number of affiliated sites constant. He further stated that the Association was continuously seeking out new training venues but certain contract restrictions, such as not interfering with an existing site's coverage area, or local zoning restrictions, make it difficult to expand. He stated further that, five potential new sites, including Long Island and Jamestown, were being considered for affiliation.

Site Visits

The Department had established an Association position titled "Site Coordinator" to execute the site visits called for by contract. The Site Coordinator was to prepare notes detailing the observations he/she made during each visit. The notes should include whether the affiliated sites were in compliance with contract requirements or whether actions were needed to correct noncompliance issues. The notes were to be prepared and filed with the Association, and copies submitted to the visited site, no more than 35 days after each visit.

During our field work we noted that the Site Coordinator position was not filled. The Administrator informed us that he had been acting as the Site Coordinator since his appointment with the assistance of a part-time Manager of Field Operations. However, except for seven visits made in 2007, he did not provide us with any notes or other documentation to evidence the required 88 visits (two per site per year) for 2006 and 2007.

To confirm whether any site visits in addition to the seven noted above had actually been made, we contacted the 12 site administrators who own and manage the existing 22 affiliated sites. According to the site administrators, 11 of the existing 22 sites had been visited by an Association official during the audit period. Thus, Association officials do not know whether a significant number of their affiliated sites (50 percent) are in compliance with contract requirements. However, based on our own observations of six facilities located throughout the State, (i.e., training grounds, class rooms, motorcycles), and the records maintained at these facilities, we conclude that the current facilities are providing the training curriculum required by contract.

Instructor Qualifications

The Program provides for two types of instruction: operator training, to train prospective motorcycle operators, and instructor training, to train prospective instructors. During the period February 2004 through April 2007, affiliated training sites hired a total of 82 instructors. Instructors must meet certain eligibility requirements set forth in Department Regulations and the Association's Administrative Policy Manual (Manual). The regulations note that it is imperative for instructors to be fully equipped with the proper education and experience to carry out the Association's mission to reduce motorcycle crashes, fatalities and injuries on the streets and highways of New York State.

The Association was responsible for verifying, among other things, that each instructor candidate:

- Holds a current National Certification from the Motorcycle Safety Foundation,
- Has a high school or general equivalency diploma and be at least 19 years old,
- Possess a current and valid motorcycle operator license for at least one year; and
- Possess an automobile operator's license free from any serious convictions for a minimum of five years (seven years if previously convicted of driving while under the influence of alcohol or drugs or driving while impaired).

Once certified, the Association was responsible for ensuring that each instructor:

- Holds a current instructor certificate; and
- Teach a minimum of two beginning rider courses per year.

To determine whether Program instructors met the above-noted eligibility requirements, we selected a sample of 50 of the 82 above-noted instructors and found that 36 of them did not meet one or more of the eligibility requirements:

- 26 instructor files did not have evidence of a high school or general equivalency diploma;
- 12 instructor files did not have any evidence that their driving histories had been checked;
- 4 instructor files did not have evidence that the candidate possessed a current and valid motorcycle operator license for at least one year prior to their respective certifications; and
- 2 instructor files did not have evidence that, once certified, each taught a minimum of two beginning rider courses each year.

As a result, these instructors may not be qualified to perform their duties as defined by the Association and the Department.

Motorcycle Inventory

The Association provided its affiliated training sites with hundreds of motorcycles to complement their own respective fleets. The Association was required to maintain a written inventory of its motorcycles. A standard written inventory would include the vehicle identification number, make, model and year of manufacture for each motorcycle. The location of each motorcycle (e.g., training site, storage, etc.) should also be noted on the inventory. As of August 2007, the Association listed a total of 449 motorcycles in its inventory. We found that the Association's inventory record was not

accurate and a significant number of motorcycles could not be accounted for.

We visited eight affiliated training sites located in various areas of the State, as well as the Association's motorcycle storage facility located in Poughkeepsie, to determine whether the motorcycles recorded as being at those facilities were actually there. The inventory record listed 102 motorcycles as located at the eight selected training sites. However, we were not able to locate a total of nine motorcycles assigned to three of the sites, nor could the respective site administrators document where they were. The motorcycles had an aggregate fair market value of \$12,285. Conversely, we found five Association motorcycles at two of the sites that were not on the inventory listing for those locations.

According to the Association's written inventory, 191 motorcycles were located at the Poughkeepsie storage facility. On August 10, 2007, we requested access to the Poughkeepsie storage facility. However, we were unable to visit the facility until September 27, 2007 since the Administrator was the only Association official with the keys to the facility, and we had to coordinate our schedules for when he was available. Once at the facility, we were only able to locate 163 motorcycles. The Administrator told us that he did not know where the 28 missing motorcycles were. The 28 missing motorcycles were valued at \$35,230. As at the training sites we visited, we identified six motorcycles at the storage facility that were not listed on the Association's written inventory records as being in storage.

When discussing this issue with Association officials, they admitted that they had not performed any physical inventory of their motorcycles since 2005 and had not been updating or adjusting their records. Instead,

they had been relying on site administrators to keep them informed of motorcycle movement between facilities or to storage.

Program Outreach

As noted above, the Association was charged with reaching out to prospective, as well as currently licensed, motorcycle operators to increase awareness of, and participation in, the Program. According to Department officials, the contract required the Association to participate in selected motorcycle events, such as the Annual Motorcycle Show at the Javits Convention Center, the State Fair in Syracuse, and the Americade Motorcycle Rally at Lake George. Association officials were to provide full-time coverage of a promotions booth at each event. The Association was also responsible for establishing a formal outreach plan.

Our audit determined that Association officials established a website, which is linked to the Department's website, and attended the noted special events where they distributed brochures and Program mementos. According to the Administrator, he also participated in periodic radio segments and traffic enforcement events. However, Association officials did not supply us with the required formal outreach plan.

Program Revenues

Affiliated training sites are responsible for collecting and reporting student tuition. Tuition for the Program's instructor training course is \$400 per student, payable to the Association, while the tuition for the Program's beginning rider course is \$275 (\$350 in the NYC metropolitan area), payable to the individual training sites. During calendar years 2006 and 2007, only 75 persons registered for the instructor training course Statewide. However, 33,854 students

enrolled in the beginning rider course during this same period.

We selected a sample of 444 beginning rider course students, of the 3,960 students enrolled at six of the training sites, to determine whether their tuition revenues were properly accounted for. The sites were judgmentally selected to represent the different geographic areas of the State - excluding the five boroughs of NYC where very few students are enrolled. These students should have paid tuition revenues of \$122,100, including \$888 in PIRP fees (two dollars per student) which are remitted to the Department.

Based on our comparison of student enrollment and cash collection records maintained by the visited training sites, the number of course completion certificates issued by the Association, as well as Program revenue records maintained by the Association and the Department, we conclude that all Program revenues at those sites were properly recorded, reported and remitted to all appropriate parties.

Recommendations

1. Work with the Association to identify and establish additional training sites as required by the new contract.
2. Require the Association to perform the required site visits, and to prepare corresponding reports.
3. Ensure that all Program instructors meet the minimum requirements outlined by the Association. Suspend current instructors who do not meet these requirements until they do so.
4. Require the Association to perform periodic physical inventories of its

motorcycle fleet and update its records as necessary.

5. Investigate the circumstances surrounding the missing motorcycles and follow up as appropriate.
6. Require Association officials to establish a formal outreach plan as required by contract.

(In responding to recommendations 1,2,3,4 and 6, the Department points out that these recommendations are no longer relevant to the Association but will be included as part of a new contract with the Motorcycle Safety Foundation. The Department responded that it will take appropriate legal action to address recommendation number 5.)

Office Administration

The Association was responsible for operating in an effective and efficient manner to prevent the unnecessary expenditure of state monies, and to promote the highest standards of public service. As such, only qualified persons should have been hired to execute Association business. Further, proper controls over the time and attendance of Association employees was vital to ensure that employees were only paid for time actually worked or charged to accumulated leave accruals. Our initial audit report of the Association noted several significant deficiencies in its personnel and payroll practices that did not provide the above assurances. These deficiencies, although addressed by the Association in its Employee Handbook (Handbook) had not been addressed in practice.

Time and Attendance

The Association's payroll expenses for the audit period exceeded \$300,000 annually.

According to the Association's contract, Association officials were required to maintain adequate records to support the dollar amount and propriety of all contract-related expenses. Biweekly or monthly time and attendance records (time records) detailing the days and hours worked by each employee, are the standard records used to support payroll expenses. According to the Association's Handbook, time records were to be prepared and signed by the individual employee and approved in writing by his/her immediate supervisor.

To assess the integrity of the Association's time records, we observed (and recorded) the time worked for all four full-time Association employees for the period August 3, 2007 through September 27, 2007, and planned to compare our observations with the associated time records for this period. The first deficiency we identified was that the Association's Administrator did not maintain any records (e.g. time sheets, travel logs, appointment sheets, etc.) to support his time and attendance since appointed. Thus, we cannot attest to the propriety of the total payroll payments made to him during the audit period. Although we observed the Administrator at the Association office on many days throughout our observation period, as well as throughout our audit, there were several days where he was not at the office with no documentation to support his being on business or charging accrued leave. There were also several occasions where we observed the Administrator arriving to the Association office after his official starting time (9:00AM) or leaving work before his official ending time (5:00PM) with no evidence of charges to leave accruals.

For the remaining three employees who did maintain time records, we observed a total of nine instances, equating to 39.5 hours, where they were not at work but their time records

showed them to be in attendance. These unsupported hours resulted in \$794 in payroll overpayments based on their individual salary rates. Lastly, we found that supervisors did not sign employee time records as required. As such, there is no evidence that they were reviewing and approving them.

Before issuance of our draft report, Association officials asserted that the auditors never inquired about the whereabouts of staff during our reported observations, and that it was very difficult to follow up on our observations months after the reported incidents. They also asserted that the Association's Administrator spent a significant amount of time at home, early mornings, evenings and weekends, working on Association business. However, they did not provide us with any documentation to support these assertions.

Recommendations

7. Ensure that each Association employee, including its Administrator, maintains an official time record signed by a supervisor. When not at work, the employee must document the business-related reason and charge accrued leave balances accordingly.

(Department officials indicated this recommendation is no longer relevant because of the new contractor, but they indicate they will withhold reimbursement for the Administrator's salary pending the Association's submission of documentation of his attendance.)

8. Investigate the instances where the Administrator was not at the Association's office during his normally scheduled hours. Reduce his leave accruals or recoup the unsupported wages accordingly.

(Department officials responded that they will withhold reimbursement until the Association provides support for activities and documents required by Association policy.)

9. Recoup the \$794 paid to the three employees who we observed as not being at work and did not record their absences on their associated time records.

(Department officials indicated that they recovered \$794 by reducing claims submitted by the Association.)

Review of Non Personal Service Expenses

During the period April 1, 2004 through May 31, 2007, the Association spent \$3.8 million dollars on non personal services including equipment purchases, travel and entertainment, credit card purchases and general operating expenses. Association officials maintained a general ledger detailing all Association expenses by date, amount and payee.

According to the contract, the Association was to maintain sufficient documentation to support and justify all contract-related expenses. Standard procurement-related documents include purchase orders, vendor invoices, and independent receiving reports. Collectively, these documents detail the need for the item(s) purchased and support the associated cost. For travel-related expenses, requests for reimbursement and paid vouchers must detail the Program-related purpose of the travel and the reasonableness of the associated expense.

We selected several judgmental samples of different general ledger expense categories, as detailed below, to determine whether the Association's expenses were supported by required documentation and were appropriate

for the Program. We identified \$316,975 in payments that were either unsupported, inappropriate or excessive.

Automobile Purchases

As noted in the Service Deliverables section of this report, the Association's Administrator took on the responsibility to make all required field visits to affiliated training facilities. In September 2006, the Association purchased a \$46,000 Ford Lariat pick up truck for the Administrator reportedly for this purpose as well as for towing motorcycles when necessary. The Association's Lariat contains many upgrades such as chrome bumpers, a chrome grill, jewel effect headlamps, premium wheels and leather accoutrements, none of which can be justified for Association purposes. As noted earlier, the Administrator did not maintain any support, such as a vehicle mileage log, to evidence the required field visits. As such, we were unable to document that the Administrator used the Lariat for anything other than commuting. Even if the Administrator did use the Lariat for Program purposes, there was no documented need for an upgraded truck. For example, a Ford 150 pick-up could have been purchased at a cost of \$17,000, \$29,000 less than the Lariat.

In addition to the truck, the Association purchased a \$13,000 motorcycle for the Administrator that we observed was also used for his commuting. There is no documented need for a motorcycle to have been purchased specifically for the Administrator considering the hundreds of motorcycles that the Association already had in its inventory.

When the Administrator used the Lariat to commute, the Association paid for metered on street parking because it reportedly did not fit in the Association's parking garage space which the Association paid \$300 a month for.

The Administrator's daily commute should have been a personal expense unless he needed a vehicle overnight for emergency purposes - obviously not a requirement of his position at the Association.

In August of 2005, the Association leased a Chrysler 300 sedan for its President who took the vehicle with him to Arizona in June 2006 upon his "semi" retirement. Once again, there is no evidence this vehicle - which at the end of the lease, October 10, 2008, will have cost the Association \$36,221 (including insurance) - was used for Program purposes.

According to the Association's Administrator, the primary user of the Lariat and motorcycle noted above, a Ford 150 does not have the towing capacity necessary to tow 12 to 14 motorcycles at a time, and the vehicle accessories we cite come with the vehicle purchased - and were not specifically requested. He also asserted that the motorcycle we question is "street legal," that can accommodate a passenger and baggage and is much different from a training motorcycle. We note that the Association did not provide us with any documentation that the Lariat was ever used for towing Association motorcycles. Further, we see no Program-related reason for the Association to have a "street legal" bike. Department officials informed us that they have disallowed the lease costs on the President's vehicle. They did not, however, comment on the vehicle costs relating to the Administrator.

Travel and Entertainment

Although the Administrator was the only Association employee during the audit period with official travel responsibilities, all of the Association's full-time employees, as well as its President, had been issued a corporate card for travel and entertainment expenses. According to the Association's Handbook, an

employee requesting reimbursement for such expenses must prepare a voucher detailing the Program-purpose of the travel and submit supporting receipts. If the corporate card was used, the Association did not require a voucher to be prepared - but receipts were still required.

According to the Association's general ledger, travel and entertainment expenses during the audit period totaled \$280,798. We selected a judgment sample of 180 travel expense transactions, each valued at \$100 or greater and totaling \$78,928, to determine whether the required support and justification was submitted prior to employee reimbursement. We found that 149 of these expense items, totaling \$55,717, had neither supporting receipts nor documentation of Program-justification.

For example, in 2006, the Association's Administrator charged the Association approximately \$13,000 for six hotel rooms for a 13-night stay in the vicinity of the New York State Fair. The credit card receipts he submitted do not denote who accompanied him or the business purpose of their attendance. In addition, the Association paid \$1,800 to maintain a "trailer" in Arizona with no explanation of who the trailer belongs to or its relationship to the Association. We also noted a total of \$2,202 charged by the Association's President for airfare for his family members between Phoenix Arizona, New York City and Darien Connecticut, and a total of \$1,609 charged by the Association's business officer for airfare to Santo Domingo. There was no business purpose attached to either of these trips. (We note that \$1,832 of the \$2,202 charged by the President, and the entire \$1,609 charge by the business officer, were eventually reimbursed to the Association.)

We also noted a total of \$31,800 charged for automobile gasoline by Association employees, once again including office-based employees with no travel responsibilities. As noted earlier, due to a lack of vehicle usage logs and travel vouchers and/or receipts documenting Program-related travel, we have no way of assessing the propriety of these charges.

General Operating Expenses

We reviewed a sample of 109 items, totaling \$235,914, categorized as general operating expenses, to determine whether the appropriate supporting documentation and justification was available. We found that 64 items were either unsupported or unrelated to the Program. Of these, 45 items, costing \$78,909, had no supporting paperwork justifying the purpose or cost of the item, and 19 items costing \$21,000, were for expenses such as home repairs for the Association's President, floral arrangements, and a Global Positioning System (GPS) purchased by the Association's President to replace one he lost which he had borrowed from a friend.

While reviewing the general ledger, we also found that the Association had paid \$12,622 during 2007 for several cell phones assigned to various Association employees, including its President, Administrator and three office-based employees. There is no written justification supporting the need for these phones.

Lastly, we noted 30 checks, totaling \$16,287, that were written to various individuals and vendors that were never cashed, dating as far back as October 3, 2003. We followed up with eight of these individuals and vendors, where telephone numbers were available, to determine whether they recalled ever receiving the uncashed checks. One of these vendors, whose two outstanding checks total

\$817, told us that he did not recall ever doing business with the Association. Seven other vendors, whose outstanding checks total \$3,035, said that they recalled doing business with the Association but did not have recollection of the specific checks or associated receivables we cited.

When we discussed this issue with the Association's business officer, she acknowledged that the noted checks had not been cashed but did not know how to make the appropriate accounting entries to cancel them and thus reflect actual Association expenses. She also did not provide us with documentation that the \$16,287 in un-cashed checks, for which the Association had already been reimbursed, had been paid or credited back to the Department.

In response to our findings, the Administrator asserted that all of the noted expense transactions we cite above, except for the erroneous use of Association credit cards for personal travel that were eventually reimbursed by the traveler, were appropriate for Association business. For example, Association employees may have had to be contacted at any time on any day necessitating the assigned cell phones. However, the Administrator did not provide us with any documentation of ever having made emergency phone calls to, or receiving emergency calls from, any of the employees assigned cell phones, nor do their respective job descriptions reflect such a need.

Recommendations

10. Restrict the Association's purchases of automobiles and motorcycles to only those that are necessary to conduct Program business. Do not reimburse the Association for the purchase for luxury options with no documented need.

(Department officials responded that no other vehicles were purchased by the Association for the Program subsequent to the audit.)

11. For the vehicles leased and/or purchased for the President and the Administrator, require the Association to determine the respective percentages of personal use. The value thereof (cost of vehicles multiplied by the percentage of personal use) should be treated as taxable fringe benefits to the users.

(Department officials responded that they have recovered the lease and associated costs for the automobile assigned to the President. They have also requested that the Association identify any costs for personal use so these can be deducted appropriately.)

12. Discontinue reimbursing the Association for the unused parking garage space it has been paying \$300 a month for.

(Department officials indicated that they believe the expense is allowable as it was part of the Program.)

13. Require the Association's business office to review and assess supporting receipts and Program justification before paying for any non personal expenses (e.g., travel, general operations, etc.).

(Department officials responded that the Association has been directed to retain receipts and document justification for all program purchases. The Department expects to complete recovering of funds by April 1, 2009.)

14. Investigate the \$134,600 in unsupported and unjustified expenses noted in this

report. Reduce future Association vouchers as appropriate.

(The Department agrees with this recommendation.)

15. Reduce any unpaid Association vouchers by the \$21,000 in non Program related expenses noted in this report.

(Department officials responded that they have determined that the receivable balance after considering disallowance from prior claims is \$2,682.32.)

16. Assess the need for the Association to maintain cell phones. Discontinue reimbursements for non Program-related usage.

(Department officials indicate that this recommendation is no longer relevant because of the new contractor.)

17. Instruct the Association to write-off the \$16,287 in un-cashed checks noted in this report. Reduce any unpaid voucher reimbursements by this amount.

(Department officials responded that the Association has been directed to write-off uncashed checks. They reduced Association claims by \$14,520.)

Department Oversight

As noted above, the Department had appointed a Program Manager to oversee Association operations. According to both the Program Manager and Association officials, there was continuous communication between the two parties regarding Association practices and contract compliance issues. In fact, the Program Manager maintained a monthly log summarizing his contacts and meetings with

the Association which included a general description of the issues addressed during those contacts and meetings. However, we conclude that the Department's oversight of Association operations has not been sufficient to prevent and detect the deficiencies identified by our audit.

As noted earlier in this report, we have been privy to several communications taking place in 2006 between the Department and the Association. As a result of these communications, the Association had agreed to implement an action plan to address several Department concerns, such as mending Association relationships with affiliated training sites and expanding the number of existing sites. Although the Department's Program manager affirmed that the action plan had been implemented, our audit determined that no documentation exists to evidence these issues have been addressed by the Association.

Further, the Program Manager was responsible for reviewing and approving all Association billings. Of the numerous unsupported and inappropriate expenses noted in this report, only one - a \$6,000 payment to the President - had been questioned by the Program Manager. In fact, as noted above, the Program Manager informed us that he did not take issue with some of these expenses such as the automobile purchases.

In addition, there is no evidence that any internal Department audits or risk assessments of the Association had been performed. As a result of insufficient oversight, the trainer qualification issues, unaccounted for assets, and inappropriate expenditure of taxpayer monies continued without check.

Recommendations

18. Proactively monitor Association operations and document all monitoring activities.

(Department officials indicate they will apply this recommendation to monitor the activities of the next contractor.)

19. Instruct the Department's Program manager on the requirements of his/her position. Instruction should include procedures to ensure contractor compliance with contract requirements, fair and equitable hiring procedures, equipment inventory controls, and review of contractor billings.

(Department officials responded that the Office of Driver Training Services has been reorganized and staff have been added to assure resources are available to provide appropriate oversight.)

20. Monitor the Program manager's effectiveness in these areas by assessing the effectiveness of the new Program contractor's operations.

(Department officials state that they will proactively monitor the Motorcycle Safety Program.)

AUDIT SCOPE AND METHODOLOGY

Our objectives were to determine whether the Association provided the training and associated administrative services required by contract; and whether Association billings were supported and Program appropriate. Our audit covered the period April 1, 2004 through September 26, 2007.

To accomplish our objectives, we interviewed Department, Association and selected training

site officials; and reviewed applicable laws, the governing contract and Association policies and procedures. We also examined the administrative and financial records maintained by the Association and selected training sites.

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutional and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits.

AUTHORITY

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

REPORTING REQUIREMENTS

We provided a draft copy of this report to Department and Association officials for their review and comment. Their comments have been considered in preparing this draft report and are included in their entirety as Appendix A.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Health shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include William Challice, Frank Patone, Stuart Dolgon, Orin Ninvalle, Raymond Louie, Elijah Kim and Daniel Bortas.

APPENDIX A - AUDITEE RESPONSE



DAVID J. SWARTS
Commissioner

NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES AUDIT SERVICES

EDWARD J. WADE
Director of Audit Services

February 9, 2009

Mr. Frank Patone, Audit Director
Office of the State Comptroller
123 William Street - 21st Floor
New York, NY 10038

Re: 2007-R-3 Draft Audit Report

Dear Mr. Patone:

We have reviewed the results of the Comptroller's audit of the administration of Contract #C000596 between the Department of Motor Vehicles and the Motorcycle Association of New York State, Inc. As noted in the report, the enabling legislation for the motorcycle safety program limited our ability to contract to essentially this one vendor, the Motorcycle Association of New York State, Inc., referred to as the Association in this response. This statutory limitation also limited the Department's actions in regard to sanctioning the Association as there was never any viable threat of replacement with a new contractor.

While the audit identified administrative issues with our Association, in spite of those issues, the motorcycle safety program provided basic rider education to more than 110,000 motorcyclists since the program's inception in 1996. The quality of the training delivered has not been disputed. Approximately one-quarter of the motorcycle licenses issued by the Department are earned through the rider education program, thus saving significant DMV staff time and costs in administering motorcycle skills tests. There has also been progress in the promotion of motorcycle safety and the provision of critical training services for New York motorcyclists.

DMV has had agreements with the Association since 1994 to organize motorcycle rider training across New York. The Association initially made progress toward the goals of the program, but especially in the last two years of the contract, there were significant compliance issues. In 2006, due to the sudden illness of the Association's President/CEO, there were lapses in management and administration. The Department notified the Association of their concerns about the management of the contract and attempted to work with the Association to assure that services continued, since a breach of contract would disrupt the delivery of critical training services offered to motorcyclists across the state. If we had cancelled the contract with the Association, under the law, we would have had no viable method to obtain an alternative service provider.

Given this situation, the Department proposed legislation that would provide a more competitive process in the selection of the state program administrator, and the Department worked conscientiously with the legislature to secure passage of the legislation. In 2008, Vehicle and Traffic Law Section 410(a) was revised to allow more competition in the selection of a contractor to administer the statewide program. A request for proposals was issued in October for a new contract, with a bid opening on December 5, 2008.

After evaluating the bids, the Department has selected a new contractor, the Motorcycle Safety Foundation (MSF). The new contractor has a proven record of accountability and effectiveness, with experience administering the motorcycle safety program for four other states: Pennsylvania, New Mexico, West Virginia and California. We are now in the process of negotiating the contract with MSF. The contract with the Association expired on February 3, 2009.

We generally agree with the audit recommendations. Several recommendations cite future actions to be taken in monitoring the Association's activities. With the expiration of the contract, these recommendations are no longer applicable to the Association. The Department will incorporate these recommendations in its oversight of the successive contract with the Motorcycle Safety Foundation and our responses below indicate what actions will be taken relative to the new contract. In some cases, the recommendations do relate to the contract with the Association and our responses will indicate the actions we intend to take.

The following is our response to the narrative and the recommendations in the audit report:

The report states that the contract that began in February 2004 was awarded for \$7,054,000. The actual contract amount totaled \$6,482,000.

*

On page 3, the statement that "the Program Manager informed us that he does not take issue with several matters addressed in our report such as the apparent personal use of Association assets (e.g., automobiles) by Association officials" was disputed in the closing conference. The Program Manager does not recall making any such statement and his actions in regard to the contract indicate that he did not behave in a manner indicating he ascribed to the above statement. Prior to the audit, the Program Manager disallowed costs for the personal use of an automobile. The Program Manager had taken issue with the Association's activities and their compliance with the contract requirements as evidenced by the notification to the Association in 2006.

*

* The report has been modified to reflect the comments provided by the Department.

Recommendation 1:

Work with the Association to identify and establish additional training sites as required by contract.

This recommendation is no longer relevant to the Association. However, the new contract with the Motorcycle Safety Foundation will require the contractor to follow a plan for the expansion to new training sites based on demographics and the supply and demand for training. MSF states that they plan to work closely with DMV to identify the need and location for new training sites, utilizing DMV data (including underserved locations), demographics, and marketing trends to develop a plan for additional training sites for each year of the contract. MSF will submit the plan to DMV for approval at least 30 days prior to each anniversary date of the contract.

Recommendation 2:

Require the Association to perform the required site visits and to prepare corresponding reports.

This recommendation is no longer relevant. However, the contract with the Motorcycle Safety Foundation will set a minimum number of monitoring visits for each training site that will be documented and reported to the Department routinely.

Recommendation 3:

Ensure that all Program instructors meet the minimum requirements outlined by the Association. Suspend current instructors who do not meet these requirements until they do so.

The Motorcycle Safety Foundation maintains a detailed Quality Assurance Program which will assure the quality of Program Instructors. For future instructor preparation courses, the Department and the Motorcycle Safety Foundation will document all efforts to assure that instructor candidates meet the program requirements. The MSF will be enrolling in the License Event Notification System to assure that current instructors continue to meet the requirements. DMV will continue to monitor the driving records of instructors certified to teach in the licensed driving schools.

Recommendation 4:

Require the Association to perform periodic physical inventories of its motorcycle fleet and update its records as necessary.

This recommendation is no longer relevant. However, if MSF acquires a fleet of vehicles, the contract with MSF will require appropriate inventories and records and the Department will monitor those records.

Recommendation 5:

Investigate the circumstances surrounding the missing motorcycles and follow up as appropriate.

The Association has located 24 of the 37 "missing" motorcycles. As they update their records, the Association will account for the entire inventory. The Association believes that the undocumented motorcycles were no longer usable and were dismantled for parts to repair other program motorcycles. The Department will take all appropriate legal action based on any authority it has remaining under the expired contract.

Recommendation 6:

Require Association officials to establish a formal outreach plan as required by contract.

This recommendation is no longer relevant. However, the Department will include in the new MSF contract appropriate outreach planning provisions and will monitor performance under these provisions.

Recommendation 7:

Ensure that each Association employee, including its Administrator, maintains an official time record signed by a supervisor. When not at work, the employee must document the business-related reason and charge accrued leave balances accordingly.

Although this recommendation is no longer relevant, the Department will withhold reimbursement for the Administrator's salary pending the Association's submission of documentation of his attendance.

Recommendation 8:

Investigate the instances where the Administrator was not at the Association's office during his normally scheduled hours. Reduce his leave accruals or recoup the unsupported wages accordingly.

The Department is withholding reimbursement for the wages claimed for the Administrator until the Association produces support for activities and documents required by Association policy.

Recommendation 9:

Recoup the \$794 paid to the three employees who we observed as not being at work and did not record their absences on their associated time records.

The Department recovered \$794 by reducing claims submitted by the Association.

Recommendation 10:

Restrict the Association's purchases of automobiles and motorcycles to only those that are necessary to conduct Program business. Do not reimburse the Association for the purchase for luxury options with no documented need.

No other vehicles were purchased by the Association for the Program subsequent to the audit.

Recommendation 11:

For the vehicles leased and/or purchased for the President and the Administrator, require the Association to determine the respective percentages of personal use. The value thereof (cost of vehicles multiplied by the percentage of personal use) should be treated as taxable fringe benefits to the users.

The Department has recovered the lease and associated costs for the lease of the automobile assigned to the President. We have requested that the Association identify any costs for personal use and will deduct them appropriately.

Recommendation 12:

Discontinue reimbursing the Association for the unused parking garage space it has been paying \$300 a month for.

The Association has been using the parking garage space to park the association's motorcycle since the beginning of the program and we believe it is an allowable expense as it was part of the program.

Recommendation 13:

Require the Association's business office to review and assess supporting receipts and Program justification before paying for any non personal expenses (e.g., travel, general operations, etc.).

The Association has been directed to retain receipts and document the justification for all program purchases. Any unjustified costs will be recovered. We expect to complete our recovery of funds by April 1, 2009.

Recommendation 14:

Investigate the \$134,600 in unsupported and unjustified expenses noted in this report. Reduce future Association vouchers as appropriate.

We continue to review those costs identified as unjustified. We will recover any items found to be inappropriate expenses. We expect to complete our recovery of funds by April 1, 2009.

Recommendation 15:

Reduce future Association vouchers by the \$21,000 in non Program related expenses noted in this report.

Our review of the items totaling \$21,000 found that \$14,764.11 was previously disallowed from the Association's claims prior to payment by the Department. We found \$3,553.57 to be allowable. We have recovered the balance of \$2,682.32 by reducing a subsequent voucher submitted by the Association.

Recommendation 16:

Assess the need for the Association to maintain cell phones. Discontinue reimbursements for non Program-related usage.

This recommendation is no longer relevant.

Recommendation 17:

Instruct the Association to write-off the \$16,287 in un-cashed checks noted in this report. Reduce future voucher reimbursements by this amount.

The Association has been directed to write-off the un-cashed checks. Our analysis of the un-cashed checks found that 12 checks were for items that were not claimed as program costs or that were subsequently credited against the account. We identified checks totaling \$14,520 in costs that were claimed and not written off or credited to the program. We have reduced the Association's claims for this amount.

Recommendation 18:

Proactively monitor Association operations and document all monitoring activities.

With the expiration of the contract with the Association, we will more closely monitor the activities of the next contractor to assure compliance with the program and administrative requirements of the contract.

Recommendation 19:

Instruct the Department's Program manager on the requirements of his/her position. Instruction should include procedures to ensure contractor compliance with contract requirements, fair and equitable hiring procedures, equipment inventory controls, and review of contractor billings.

The Department has reorganized the program management to the Office of Driver Training Services and has added staff to assure that resources are available to provide appropriate oversight for the Motorcycle Safety Program.

Mr. Frank Patone

7

February 9, 2009

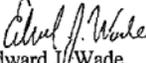
Recommendation 20:

Monitor the Program manager's effectiveness in these areas by assessing Association improvements. If Association operations do not improve, take corrective action at both the Association and Program manager levels.

With the reorganization of the program and a new contractor, the Department will proactively monitor the Motorcycle Safety Program to assure compliance with all requirements at the management and contractor levels.

We will continue to look for improvement opportunities such as these and always welcome a chance to better serve the citizens of this State. If you have any questions concerning this matter, please contact me.

Sincerely,


Edward J. Wade
Director of Audit Services

